

**MINUTES
ZONING BOARD OF ADJUSTMENT
FEBRUARY 4, 2009**

The Lewisville Zoning Board of Adjustment was called to order at 6:30 p.m. Members present:

Leroy Vaughn, Marshan Naragon (Vice-Chairman), William "Bill" Price (P&Z Representative), Tom Jensen (Alternate) and Ruben Retzlaff (Alternate)

Members Stephanie Rogers (Chairman) and Joy Bunnell were absent.

Staff members present: Mary Paron Boswell and Cleve Joiner

Item 2: Minutes

Approval of the April 2, 2008, minutes was next on the agenda. A motion was made by Bill Price to approve the minutes and seconded by Tom Jensen. The motion was approved (5-0).

Item 3: Public Hearings

- A. Consideration of a variance request to allow an encroachment into the required 100 foot front, side and rear yard setbacks, by allowing the following encroachments for the existing residence and new addition and the existing garage, located at 417 E Jones St; further identified as Tract 3 of the Waggoner Survey, Abstract 1399, Zoned Agricultural Open Space (AO). The request is being made by Eliu Platas, the property owner. (Case No. BA20090201)

For the existing residence and the new addition to the rear of the house, to allow for the following encroachments:

- Front - approx. 42 ft
- West Side - approx. 68 ft
- East Side - approx. 77 ft
- Rear - approx. 46 ft

For the existing garage, to allow for the following encroachments:

- West Side - approx. 87 ft
- East Side - approx. 13 ft
- Rear - approx. 94 ft

Staff presented to the ZBOA members the case for 417 E. Jones St. Staff indicated that there was a correction to the exhibit, the garage rear encroachment should read 94 ft instead of 84 ft. Tom Jensen asked if a single-family home was allowed in AO zoning and staff indicated that it was. He also asked if there was something in the codes that would prevent the remodel. Staff indicated that the setbacks were an issue and that a variance would need to be granted in order to add onto the existing building or build anything new on site. Staff indicated that Mr. Platas came to the city and

to obtain all of the necessary permits, and it was an oversight on staff's part for not verifying the zoning, related setbacks and platting of the property. In speaking with staff Mr. Platas has agreed to do whatever it takes to comply include platting the property. Leroy Vaughn asked if the Board would be setting precedence by approving the variance. Staff indicated that each case would need to be judged on its own merit but that allow others to argue the same point. Staff explained that the lot was approximately half an acre in size and that even if this lot was zoned R-18, the largest single-family residential category that Lewisville has, the house exceeds all of the required setbacks, however the AO setbacks would not allow even the existing structure to be on-site. The public hearing was then opened and there being no one present to speak for or against the item, the public hearing was then closed. Tom Jensen stated that he drove the area and that the house looked good and good on the lot in terms of placement on the lot. A motion was made by Tom Jensen to recommend approval, seconded by Ruben Retzlaff. The motion passed unanimously (5-0).

- B.** Consideration of a variance request to allow an encroachment of approximately 35 feet into the 50 foot rear yard setback for a portion of an existing building and a proposed expansion, and approximately 18 feet into the 25 foot front yard setback along Maple Dr. for the existing building, and to allow two parking spaces in the front yard setback on Cowan St. for the property located at 741 N. Cowan St.; further identified as Tract 30 of the R. Craft Survey, Abstract 255. The request is being made by Greg Romney the current property owner. (Case No. BA20090202)

Staff presented to the Board that the property was zoned Light Industrial (LI) which allowed the use that Mr. Romney was proposing. Mr. Romney planned on moving his business office to this location which he recently purchased. Staff informed the Board that we looked at the option of having Mr. Romney rezone the property to General Business (GB) which is more restrictive than LI zoning and which would eliminate one of the setback issues for the proposed addition, but would not resolve the existing encroachment. Seeing that a variance to the ZBOA would still be required for the existing structure, no zone change was done to the property. Mr. Romney has submitted a plat and site plan for staff review. The ZBOA variances were the first variances that need to be approved in order for the project to move forward. Mr. Romney met with his residential neighbors whose property he abuts and had written statements from them indicating that they approved with his proposed plans. Staff indicated that the Barnett and McKee Cabinet property located on the southwest corner of Maple Dr. and Cowan Ave received a variance for their existing structure that reside in the 25 ft setback along Maple Dr. to remain in 2002. Leroy Vaughn asked what he planned on tearing down. Staff went over the drawings showing what currently existed was already encroaching into the setbacks and that Mr. Romney proposed to take down a covered porch and storage building and wished to add onto the existing 890 square foot building bringing it up to 1268 square feet. Staff indicated that the building encroached into the setback already regardless of it being used as a residence or commercial property. As proposed on his site plan, Mr. Romney would be adding landscaping and irrigation along both Cowan Ave and Maple Dr. and would have six parking spots. His employees come in the morning to get their supplies and take the trucks home with them. Leroy also asked how a property could be zoned LI when in a residential area. Staff indicated that it depended on the situation. This particular property fronts onto Cowan which is a two lane collector road and all the other properties on Cowan are zoned LI, so the LI zoning on

that property is not out of place. If a request came for a property that was an interior lot on a residential street, the argument could be made it was spot zoning. Marshan Naragon and some of the other members had questions and concerns over people backing out onto Cowan Ave. Staff and the engineer working on the project showed that the required parking and maneuvering space is shown on the plans. Staff indicated that if people chose to back out onto the street that it was a violation of the ordinance that could be handled via citations being issued. Ruben and Tom did not have an issue over the parking and maneuvering on-site. The public hearing was opened and Greg Edwards, engineer for the project spoke in favor of the request. He pointed out that the required parking stalls and maneuvering space were available on-site. He felt that Mr. Romney's proposal was a reasonable concept and that typically the setbacks are in place to protect residents from the typical LI users, but that this is not a typical LI use but more of an office service operation. Mr. Romney planned on updating the building and being a good neighbor and corporate citizen. Mr. Edwards pointed out that approximately 85% of the site is taken up by setbacks, leaving a relatively tiny area for a building to be erected. Leroy Vaughn asked if there would be any out buildings for storage. Mr. Romney indicated that the garage and a portion of the addition would be used for storage, not an out building. Tom Jensen asked if they would have any semi's delivering to them. They indicated that they would not. Danny Barnett and Rider McKee owners of Barnett and McKee Cabinets located on the southwest corner of Cowan Ave and Maple Dr. were afraid that people would start parking on Maple and blocking the street if they couldn't park on-site. They indicated that they had problems with the previous tenants of the property and didn't think the existing garage structure was safe. Mr. McKee was also afraid that if Mr. Romney eventually moved out, who the new business would be and if they need more parking what would then happen. Staff indicated that if there was not adequate parking available that a business would not be able to move into the site legally. Leroy Vaughn asked staff if they would be able to request a variance to if they were short parking spaces. Staff indicated that they would but that they would not support the variance. Ruben Retzlaff and Tom Jensen asked if "No Parking" signs could be placed on Maple Dr. Staff indicated that they would look into that possibility. Mr. Barnett and McKee indicated that they were not notified by Mr. Romney. Staff indicated that the City sent out letters to all property owners within 200 ft of the property as required by State law, which included them, and that Mr. Romney spoke to the two residential property owners that his property is contiguous to and were directly affected by his site in terms of the screening fence. Marshan Naragon stated that she understood that the plans met all of the parking requirements but that she still had concerns that people would back out onto Cowan Ave. Staff reiterated that the site complied with the parking requirements with 6 spaces and that their concerns could be addressed via traffic citations/tickets. Tom Jensen stated that he was bothered that the property owner bought the property before having the issue resolved. Having no one else present to speak on the item, the public hearing was then closed. A motion was made by Ruben to recommend approval of the requested variances, seconded by Bill Price. The motion failed with a vote of 2-3, with Tom, and Ruben in favor and Bill, Marshan and Leroy in opposition. A motion was made by Leroy Vaughn to deny the requested variances, seconded by Bill Price. The motion passed with a vote of 3-2, with Tom and Ruben voting against denying the variance.

There being no other business before the Board, the meeting adjourned at 7:44 p.m.
These minutes approved by the Lewisville Zoning Board of Adjustment on **February 4, 2009.**

Respectfully Submitted,

Mary Paron Boswell, Sr. Planner

Approved,

Stephanie Rogers, Chairman